

230864

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
AUG 24 2011
Part of
Public Record

STB FINANCE DOCKET No. 35305

**PETITION OF ARKANSAS ELECTRIC COOPERATIVE
CORPORATION FOR A DECLARATORY ORDER**

**REPLY IN SUPPORT OF PETITION TO RE-OPEN AND
FOR INJUNCTIVE RELIEF PENDING
BOARD-SUPERVISED MEDIATION**

The National Coal Transportation Association (NCTA) supports the Petition filed by Western Coal Traffic League (WCTL) dated August 11, 2011 to re-open this proceeding. This reopening is necessary to assure compliance with the Decision of the Board (STB) ordered on March 31, 2011 in this matter.

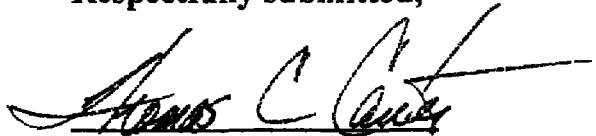
This reply is submitted on behalf of the Board of Directors of the NCTA. The NCTA is a nonprofit corporation operating as an association consisting primarily of coal producers, electric utilities, and coal transportation product and transportation services providers with over 140 geographically diverse corporate members doing business in the United States, Canada, and Australia. The mission of NCTA is to educate its members and the general public relative to the coal transportation industry, and to facilitate the resolution of challenges within the coal transportation arena. NCTA members are vitally interested in the reliable, efficient, and economic transportation of coal

by rail. Many NCTA members are shippers on the BNSF and are potentially affected by the tariff BNSF 6041-B published on July 20, 2011 (BNSF Tariff)

The Petition of WCTL presents a strong case that the BNSF Tariff does not meet the expectations and requirements of the above-mentioned Decision of the Board. The NCTA is optimistic that the tariff's insufficient compliance may be satisfactorily addressed by mutual agreement and consensus of the parties. However, noting the contentiousness of the dust issue, we believe the Board's leadership, sanction, direction to mediate, and supervision will be required to bring all parties to the table. NCTA re-iterates its standing offer to assist the Board and the parties to facilitate the mediation process, if so ordered by the Board.

Successful mediation requires the granting of injunctive relief or a stay of the implementation of the BNSF Tariff. The short time frame does not allow adequate time for completion of mediation prior to the October 1, 2011 effective date of the Tariff. Accordingly, the NCTA respectfully requests the reopening of the proceeding, and further requests the Board to supervise mediation as soon as practicable after a necessary stay of the effective date of the Tariff. Additionally, NCTA offers to provide the Board a forum for a mediation session during the afternoon on September 14, 2011, after NCTA's fall conference in Denver where most of the affected parties will be in attendance. NCTA will also be pleased to arrange a mediation session at a later date that may be more convenient.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Canter", with a long horizontal flourish extending to the right.

Thomas C. Canter
Executive Director
National Coal Transportation Association

Dated: August 23, 2011

CERTIFICATE OF SERVICE

I hereby certify that this 24th day of August, 2011. I have caused the forgoing to be served by first-class mail, or by more expedited means, on all parties of record.

A handwritten signature in black ink, appearing to read "Thomas C. Canter", with a long horizontal flourish extending to the right.

Thomas C. Canter